

REMARKS

Initially, Applicants would like to thank the Examiner for his courtesy in conducting a telephone interview with Applicants' representative, Joshua M. Povsner, on October 10, 2009. In the telephone interview, the Examiner indicated that "from outside" in claim 24 is interpreted broadly as merely requiring that data be received "from outside" the receiving section. The Examiner concluded that recitations of data being received from outside would read on any data received by a flash memory from a host processor. In the telephone interview, the Examiner also indicated that a "data type" in Applicants' claims is interpreted broadly such that a "type" of data could be distinguished from another type merely by a characteristic such as size. The Examiner indicated that "data type" in the claims should be defined in a manner that excludes a broad interpretation where a characteristic such as size could be used to distinguish a type of data from another type of data.

In the outstanding Final Office Action, claims 24-46 were again rejected under 35 U.S.C. §102(b) over OUCHI (JP 2000181784).

Upon entry of the present amendment, claim 24 will have been amended to include substantially all of the features previously recited in claim 26, and claim 41 will have been amended to include substantially all of the features previously recited in claim 42. Claims 26 and 42 will have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims will have additionally been amended to eliminate noted informalities. The herein-contained amendment and cancellations should not be considered an indication of Applicants' acquiescence as to the propriety of the outstanding rejection. Rather, Applicants have amended claims to advance prosecution and obtain early allowance of claims in the present application.

Applicants traverse the rejection of claims under 35 U.S.C. §102(b) over OUCHI. In this regard, as noted in Applicants' previous Response, OUCHI is itself a Japanese-language document, and Applicants' remarks herein are therefore based upon a review of the machine-generated English translation and English Abstract of OUCHI supplied by the Examiner to analyze the rejection.

Amended claim 24 includes the following characteristic features:

- an information recording medium includes a first recording area in which data writing is managed in a first access unit and a second recording area in which data writing is managed in a second access unit larger than the first access unit; and
- a controller controls access to the first or second recording area according to a received command
- the controller controls the access so as to select the first or second recording area depending on a data type of the received data and to write the received data to the selected area
- data types used by the controller in selecting the first or second recording area for the received data include a type indicating entity data, and a type indicating file system management information.

Amended claim 41 includes the following characteristic features:

- writing of data to a first recording area is managed in a first access unit;
- writing of data to a second recording area is managed in a second access unit larger than the first access unit

- either one of the first and second recording areas is selected as a data writing area depending on data type of received data
- data types used in selecting the first or second recording areas for the received data include a type indicating entity data of the file managed by the file system, and a type indicating information necessary for management of the file in the file system.

According to amended claims 24 and 41, “data type” cannot be interpreted so broadly as to be distinguishable merely by a characteristic such as size. Rather, “data type” in each of claims 24 and 41 is specified to be data types particularly indicative of entity data or file system management information (information necessary for management of the file in the file system in claim 41). The English language translation and Abstract of OUCHI do not disclose any teaching that data is written to an area depending on types of data including data types particularly indicative of entity data or file system management information (information necessary for management of the file in the file system in claim 41). As noted in Applicants’ previous Response, the cited teachings of OUCHI merely disclose using the size of data, and particularly the number of sector regions to which data is to be written, when determining where to write data. These teachings of OUCHI in relation to using size of data and number of sector regions do not disclose using types of data including data types particularly indicative of entity data or file system management information (information necessary for management of the file in the file system in claim 41). Accordingly, OUCHI does not explicitly disclose the features of amended claims 24 and 41.

Further, there is no absolute correspondence between size of data/number of sector regions and data types particularly indicative of entity data or file system management

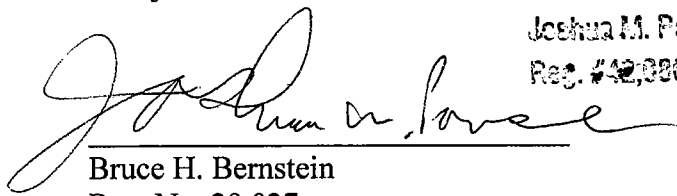
information (information necessary for management of the file in the file system in claim 41). Accordingly, OUCHI does not inherently disclose the features of amended claims 24 and 41. Therefore, OUCHI does not disclose "each and every" feature of independent claims 24 and 41, as would be required for claims 24 and 41 to be properly rejected over OUCHI under 35 U.S.C. §102.

Therefore, independent claims 24 and 41 are allowable under 35 U.S.C. §102 over OUCHI. Dependent claims 25, 27-40 and 43-46 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Any amendments to the claims in this Amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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November 12, 2009
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